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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,743	10/26/2001	Balakrishnan Shankar	SJ1-026US	9121

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PACESETTER, INC.
15900 VALLEY VIEW COURT
SYLMAR, CA 91392-9221

EXAMINER

OROPEZA, FRANCES P

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 05/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SA

Office Action Summary

Application No.

10/039,743

Applicant(s)

SHANKAR ET AL.

Examiner

Frances P. Oropeza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 2/15/05 (Amendment).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2,3,5-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2,3,5-12,15-24 and 26 is/are rejected.
- 7) ☒ Claim(s) 13 and 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response

1. The Applicant amended independent claims 3, 8, 10 and 19 hence the rejection of record is withdrawn and a new rejection established in the subsequent paragraphs.

Claim Rejections - 35 USC § 102

2. Claims 2-8, 10, 11, 15-17, 19, 20 and 22-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Haubrich (US 6379300). Haubrich discloses and implanted device (10) with an enclosure (12) and header, antenna (20a), a diplexer (26, 30, 32, 34), an RF transceiver (24), feedthroughs (22) and pacing/ sensing circuitry (28). The enclosure (12) is read as the first chamber and the header is read as the second chamber, the second chamber containing communication circuitry, an antenna and diplexer. The antenna is read as a transceiver since, as part of the transceiver, it is used for both reception and transmission (figure 2; col. 2 @ 47 – col. 3 @ 23; col. 3 @ 46 – col. 4 @ 24). US 5697958 to Paul et al. is incorporated by reference (col. 1 @ 22-31) to teach the antenna in the header (abstract). US 5861019 to Sun et al. is incorporated by reference (col. 1 @ 22-31) to teach the antenna integrated into the casing (abstract).

As to the communication circuitry adapted to transmit and receive RF/ high frequency communication signals via an antenna, Haubrich teaches communication circuitry adapted to transmit and receive RF/ high frequency communication signals via an antenna (col. 1 @ 5-15 and 52-56; col. 2 @ 9-18; col. 3 @ 61 – col. 4 @ 14).

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The Applicant's arguments filed 2/15/05 have been fully considered, but they are not convincing. The Applicant asserts Haubrich does not teach a casing that houses the cardiac therapy circuitry in electrical isolation from the communication circuitry which is adapted to transmit and receive communication signals via an antenna, the casing including a first chamber to house the cardiac therapy circuitry and a second chamber to house the communication circuitry. The Examiner disagrees for two reasons.

First, in response to the Applicant's argument that the references fail to show a certain feature of the Applicant's invention, it is noted that the feature upon which applicant relies (i.e., providing "electrical isolation") is not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claim recites the limitation of "isolation", not "electrical isolation".

Secondly, Haubrich does teach a casing (housing (12) and header) that houses the cardiac therapy circuitry (pace/sense (28)) in isolation (by virtue of the housing wall and diplexer/ filters) from the communication circuitry (antenna (20a) and diplexer (32, 34, 26, 30)) which is adapted to transmit and receive communication signals via an antenna (20a), the casing (housing (12) and header) including a first chamber (housing (12)) to house the cardiac therapy circuitry (pace/sense (28)) and a second chamber (header) to house the communication circuitry (antenna (20a) and diplexer (32, 34, 26, 30)).

Claim Rejections - 35 USC § 103

3. Claims 9, 18 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haubrich (US 6379300) in view of Bardy (US 6312378). As discussed in paragraph 2 of this action, Haubrich discloses the claimed invention except for the implanted device being linked to a computing network.

Bardy teaches data management using a computing system (14, 15, 16, 17) connected to an implantable device (12) for the purpose of automatically collecting and analyzing patient information. It would have been obvious to one having ordinary skill in the art at the time of the invention to have used a computing system connected to an implantable device in the Haubrich system in order to enable remote patient care so trends in the patient's condition can be recognized and a determination made regarding the need for intervention (figure 1; col. 1 @ 8-12; col. 2 @ 41-49).

4. Claims 12 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haubrich (US 6379300) in view of Ware (US 4314562). As discussed in paragraph 2 of this action, Haubrich discloses the claimed invention except for the second chamber being encompassed in the first chamber.

Ware teaches implantable system enclosures using chambers (cups with covers) for the purpose of electrically isolating system components. Absent any teaching of criticality or unexpected results, it would have been obvious to enclose the diplexer within a second chamber that is encompassed in the first chamber as a mere substitute of known functionally equivalent housing structures (figures 1, 9; col. 3 @ 6-9).

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Allowable Subject Matter

5. Claims 13 and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Statutory Basis

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Fran Oropeza, telephone number is (571) 272-4953.

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If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, Angela D. Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular communication and for After Final communications.

Frances P. Oropeza
Patent Examiner
Art Unit 3762

FPO
5/2/05

Angela D. Sykes

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